

IN THE UNITED STATES DISTRICT COURT  
FOR THE  
MIDDLE DISTRICT OF PENNSYLVANIA

WADE KNIGHT,	:	
Plaintiff	:	
	:	
v.	:	CIVIL NO.3:CV-05-18
	:	
	:	(Judge Conaboy)
J. KAMINSKI, ET AL.,	:	
Defendants	:	

**ORDER**  
**Background**

Wade Knight, an inmate presently confined at the Big Sandy United States Penitentiary, Inez, Kentucky, filed this pro se action regarding events which purportedly transpired during his prior confinement at the Allenwood United States Penitentiary, White Deer, Pennsylvania (USP-Allenwood). His Complaint included civil rights allegations and claims under the Federal Tort Claims Act (FTCA).

By Memorandum and Order dated March 10, 2006, Defendants' motion to dismiss or in the alternative for summary judgment was construed as solely seeking summary judgment and granted in part. By Memorandum and Order dated September 25, 2007, this Court granted summary judgment in favor of Defendants with respect to Plaintiff's remaining claims.<sup>1</sup>

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<sup>1</sup> The September 25, 2007 Memorandum and Order in part addressed the issue of whether Knight's FTCA claim was precluded by the

On May 29, 2009 the United States Court of Appeals for the Third Circuit issued an opinion which summarily affirmed the dismissal of Plaintiff's action. See Doc. 144-2. By Order dated September 7, 2010, Plaintiff's motion for relief from judgment pursuant to Federal Rule of Civil Procedure 60(b)(6) was denied.

A March 27, 2013 unanimous decision of the United States Supreme Court reversed a judgment of the Third Circuit Court of Appeals which was based upon the precedent of Pooler. See Millbrook v. United States, 133 S.Ct. 1441 (2013). Knight has filed a petition (Doc. 166) and motion (Doc. 172) to reopen his FTCA claims in light of Millbrook.

Within twenty-one (21) days of the date of this Order the parties shall file supplemental briefs addressing whether Plaintiff has satisfied the exceptional circumstances standard set forth in Cox v. Horn, 757 F.3d 113 (3d Cir. 2014). An appropriate Order will enter.

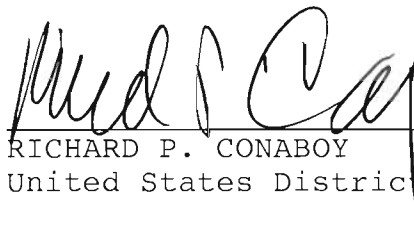
AND NOW, THIS 16<sup>th</sup> DAY OF NOVEMBER, 2016, IT IS  
THEREFORE ORDERED THAT:

Within twenty-one (21) days of the date of this  
Order, the parties shall file supplemental briefs

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Third Circuit's interpretation of § 2680(h) in Pooler v. United States, 787 F.2d. 868, 872 (3d Cir. 1986).

addressing whether Plaintiff's petition and motion to reopen his FTCA claims satisfy the exceptional circumstances standard set forth in Cox v. Horn, 757 F.3d 113 (3d Cir. 2014).



RICHARD P. CONABOY  
United States District Judge

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